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5 **BEFORE THE**
6 **BOARD OF REGISTERED NURSING**
7 **DEPARTMENT OF CONSUMER AFFAIRS**
8 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. 2012-377

10 **CHARLES GEORGE LEGASSE**
11 **6221 Brian Circle**
12 **Riverside, CA 92509**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Registered Nurse License No. 641905

Respondent.

13 **FINDINGS OF FACT**

14 1. On or about December 16, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her
15 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
16 Consumer Affairs, filed Accusation No. 2012-377 against Charles George Legasse (Respondent)
17 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

18 2. On or about July 30, 2004, the Board of Registered Nursing (Board) issued
19 Registered Nurse License No. 641905 to Respondent. The Registered Nurse License was in full
20 force and effect at all times relevant to the charges brought in Accusation No. 2012-377 and will
21 expire on October 31, 2013, unless renewed.

22 3. On or about December 16, 2011, Respondent was served by Certified Mail with
23 copies of the Accusation No. 2012-377, Statement to Respondent, Notice of Defense, Request for
24 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
25 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
26 section 1409.1, is required to be reported and maintained with the Board, which was and is:

27 6221 Brian Circle
28 Riverside, CA 92509.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. The Domestic Return Receipt reflects that Respondent accepted the mailing of the
5 document on December 21, 2011. The aforementioned documents were not returned by the U.S.
6 Postal Service as undeliverable.

7 6. Government Code section 11506 states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts
10 of the accusation not expressly admitted. Failure to file a notice of defense shall
11 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
12 may nevertheless grant a hearing.

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
14 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
15 2012-377.

16 8. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at the
18 hearing, the agency may take action based upon the respondent's express admissions
19 or upon other evidence and affidavits may be used as evidence without any notice to
20 respondent.

21 9. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 2012-377, finds
26 that the charges and allegations in Accusation No. 2012-377, are separately and severally, found
27 to be true and correct by clear and convincing evidence.

28 10. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$5,072.75 as of February 27, 2012.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Charles George Legasse has subjected his Registered Nurse License No. 641905 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violation, alleged in the Accusation, which is supported by the evidence contained in the Default Decision Evidence Packet: Respondent is subject to discipline pursuant to Business and Professions Code section 2761, subdivision (a), for unprofessional conduct when he stapled a surgical scrub technician's arm with a used surgical stapler.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 641905, heretofore issued to Respondent Charles George Legasse, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012

It is so ORDERED July 5, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

80607118.DOC
DOJ Matter ID: SD2011801416

Attachment:

Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DIANE DE KERVOR
Deputy Attorney General
4 State Bar No. 174721
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2611
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

14 **CHARLES GEORGE LEGASSE**
15 **6221 Brian Circle**
Riverside, CA 92509
16 **Registered Nurse License No. 641905.**

17 Respondent.

Case No. 2012-377

A C C U S A T I O N

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about July 30, 2004, the Board of Registered Nursing issued Registered Nurse
25 License Number 641905 to Charles George Legasse (Respondent). The Registered Nurse

26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on October 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY AUTHORITIES

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct.

"..."

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct –**

3 **Stapling Surgical Scrub Technician's Arm With Used Surgical Stapler)**

4 8. Respondent is subject to disciplinary action pursuant to Code section 2761,
5 subdivision (a), on the grounds of unprofessional conduct, in that he stapled a co-worker's arm
6 with a dirty surgical stapler thereby exposing her to infection. The circumstances are as follows:

7 a. On or about March 24, 2011, Respondent was working as a registry nurse in the
8 surgical suite of Redlands Community Hospital. At the conclusion of a surgical procedure, a skin
9 stapler that was used during the procedure had fallen to the floor. Respondent picked it up and
10 playfully started stapling the edge of K.S.'s, the scrub technician's, gown when he inadvertently
11 stapled her arm. K.S. removed her gown and pulled out the staple, which left two puncture
12 wounds. The staple exposed K.S. to Vancomycin-Resistant Enterococci and Methicillin-Resistant
13 Staphylococcus Aureus, both infections for which the previous surgical patient cultured positive.
14 K.S. had to be tested twice for the pathogens which, fortunately, were negative.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 641905, issued to Charles
19 George Legasse;

20 2. Ordering Charles George Legasse to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: December 16, 2011

25 *Stacie Ben*
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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